

INTRODUCED _____
PUBLIC HEARING _____
COUNCIL ACTION _____
EXEC. ACTION _____
EFFECTIVE DATE _____

County Council of Howard County, Maryland

2005 Legislative Session

Legislative Day No. 4

Bill No. 6-2005

Introduced by: The Chairman at the request of the County Executive

AN ORDINANCE supplementing Council Bill No. 22-2002, as supplemented, which provided for the issuance of the County's Consolidated Public Improvement Bonds to provide funds to pay the County's Consolidated Public Improvement Commercial Paper Bond Anticipation Notes, Series C (the "Notes"), in order to provide for the issuance of an additional \$60,345,000 of such Bonds in order to provide funds to pay \$59,439,000 of additional Notes, and for related purposes; and providing for and determining various matters in connection therewith.

Introduced and read first time _____, 2005. Ordered posted and hearing scheduled.

By order _____
Sheila M. Tolliver, Administrator

Having been posted and notice of time & place of hearing & title of Bill having been published according to Charter, the Bill was read for a second time at a public hearing on _____, 2005.

By order _____
Sheila M. Tolliver, Administrator

This Bill was read the third time on _____, 2005 and Passed ____, Passed with amendments ____, Failed ____.

By order _____
Sheila M. Tolliver, Administrator

Sealed with the County Seal and presented to the County Executive for approval this __ day of _____, 2005 at ____ a.m./p.m.

By order _____
Sheila M. Tolliver, Administrator

Approved by the County Executive _____, 2005

James N. Robey, County Executive

NOTE: [[text in brackets]] indicates deletions from existing law; TEXT IN ALL CAPITALS indicates additions to existing law; ~~Strike out~~ indicates material deleted by amendment; Underlining indicates material added by amendment

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By July 1, 2002 the County had satisfied all conditions precedent for the initial issuance of its Howard County, Maryland Consolidated Public Improvement Commercial Paper Bond Anticipation Notes, Series C, in the initial maximum aggregate principal amount outstanding at any one time of \$60,000,000 (the "Notes") in accordance with Council Bill No. 23-2002 of the County Council, enacted and effective on June 5, 2002 (the "Original Note Ordinance"). The Original Note Ordinance was enacted pursuant to the Initial Bond Enabling Laws and Section 12 of Article 31 of the Annotated Code of Maryland, as amended (the "Bond Anticipation Note Act").

The Original Note Ordinance provides that the proceeds of the Notes will be applied, inter alia, to defray a portion of the costs of the Howard County Capital Projects designated and described in Appendix II thereto (the "Initial Projects") (as such Appendix II may be modified by ordinances supplemental thereto). The Initial Bond Ordinance provides that the first proceeds of the Initial Bonds of each series will be applied to the payment of the principal of the Notes when due (whether at maturity or otherwise), or, if any of the Notes have been paid with the proceeds of an Advance under the Credit Agreement or any other Liquidity Facility Agreement (all as defined in the Original Note Ordinance), such first proceeds may be applied in

1 accordance with the Credit Agreement or such other Liquidity Facility Agreement to the payment of the
2 obligations of the County under the Credit Agreement (and the Promissory Note (as defined in the Original
3 Note Ordinance)) or other applicable Liquidity Facility Agreement incurred in connection with such
4 Advance.

5 The Original Note Ordinance has been heretofore supplemented by (a) (i) Council Bill No.45-
6 2002, enacted and effective on August 2, 2002, and (ii) Council Bill No.47-2002, enacted and effective
7 on October 9, 2002 (collectively, the "2002 Supplemental Project Ordinances"), (b) Council Bill No. 46-
8 2003, enacted and effective on August 1, 2003 (the "2003 Supplemental Project Ordinance"), (c) Council
9 Bill No. 1-2004, enacted and effective on January 21, 2004, as supplemented by Council Bill No. 2-2004,
10 enacted and effective on January 23, 2004 (collectively, the "2004 Bond Sale Ordinance"), (d) Council
11 Bill No. 47-2004, enacted and effective on September 8, 2004 (the "2004 Supplemental Project
12 Ordinance") and (e) Council Bill No. 73-2004, enacted and effective on December 8, 2004 (the "2005
13 Bond Sale Ordinance") in order to (1) add Council Bills Nos. 24-2002, 25-2002 and 35-2002
14 (collectively, the "2002 Additional Bond Enabling Laws"), Council Bills Nos. 28-2003, 29-2003, 39-
15 2003, 40-2003, 55-2003 and 56-2003 (collectively, the "2003 Additional Bond Enabling Laws") and
16 Council Bills Nos. 18-2004, 19-2004, 20-2004, 31-2004 and 32-2004 (collectively, the "2004 Additional
17 Bond Enabling Laws") to the definition of "Bond Enabling Laws" in the Original Note Ordinance, (2)
18 modify the definitions of "Projects" and the descriptions in the Original Note Ordinance of the costs of
19 the Projects which can be financed with the proceeds of the Notes to add the additional Howard County
20 Capital Projects and related bond authorizations and the revised bond authorizations for existing Projects
21 provided for in the 2002 Additional Bond Enabling Laws, the 2003 Additional Bond Enabling Laws and
22 the 2004 Additional Bond Enabling Laws (collectively, the "Additional Projects"), and (3) modify
23 Appendix II to the Original Note Ordinance by including as a part thereof the appendices attached to the
24 2002 Supplemental Project Ordinances, the 2003 Supplemental Project Ordinance and the 2004

1 Supplemental Project Ordinance, Appendix II attached to the 2004 Bond Sale Ordinance and Appendix II
2 attached to the 2005 Bond Sale Ordinance.

3 The Original Note Ordinance has also been supplemented by Council Bill No. 23-2003, enacted
4 and effective on June 6, 2003 (the "2003 Supplemental Note Ordinance"), in order to, among other things,
5 provide for the issuance of an additional \$90,000,000 of the Notes and increase the maximum aggregate
6 principal amount of the Notes authorized to be outstanding thereunder and the maximum amount of
7 Advances under the Credit Facility from \$60,000,000 to \$90,000,000, and by Council Bill No. 46-2004,
8 enacted and effective on July 27, 2004 (the "2004 Supplemental Note Ordinance"), in order to provide for
9 the issuance of an additional \$50,000,000 of the Notes. In addition, Appendix II to the Original Note
10 Ordinance included certain Projects and Project costs which were authorized by Council Bills Nos. 26-
11 2001 and 27-2001, both enacted on July 3, 2001 and effective on September 3, 2001, among the Original
12 Projects (the "Omitted Bond Enabling Laws"), but the Omitted Bond Enabling Laws were not included in
13 the list of Initial Bond Enabling Laws. The 2003 Supplemental Note Ordinance also added the Omitted
14 Bond Enabling Laws to the definition of "Bond Enabling Laws".

15 Accordingly, as used herein, the term "Existing Note Ordinance" means the Original Note
16 Ordinance as modified and supplemented by the 2002 Supplemental Project Ordinances, the 2003
17 Supplemental Project Ordinance, the 2004 Supplemental Project Ordinance, the 2003 Supplemental Note
18 Ordinance, the 2004 Bond Sale Ordinance, the 2004 Supplemental Note Ordinance and the 2005 Bond
19 Sale Ordinance.

20 On June 5, 2002, the County also enacted Council Bill No. 22-2002 (the "Original Bond
21 Ordinance"), pursuant to the Initial Bond Enabling Laws in order to provide for the issuance and sale of
22 \$60,915,000 in aggregate principal amount of its Consolidated Public Improvement Bonds, in one or more
23 series (the "Bonds"), in order to pay the Notes. The Original Bond Ordinance provides that it may be
24 supplemented to modify the definitions of "Bond Enabling Laws" and "Projects" thereunder so that such

1 terms will remain consistent with the definitions thereof in the Note Ordinance and the proceeds of the Bonds
2 may be used to refinance all of the Projects financed with the proceeds of the Notes.

3 The Original Bond Ordinance has also been heretofore supplemented by (a) the 2002 Supplemental
4 Project Ordinances, the 2003 Supplemental Project Ordinance, the 2004 Bond Sale Ordinance, the 2004
5 Supplemental Project Ordinance and the 2005 Bond Sale Ordinance, (b) Council Bill No. 22-2003, enacted
6 and effective on June 6, 2003 (the "2003 Supplemental Bond Ordinance"), which increased the aggregate
7 principal amount of the Bonds authorized to be issued pursuant to the Original Bond Ordinance, as
8 theretofore supplemented, by an additional \$91,375,000, (c) Council Bill No. 24-2003, also enacted and
9 effective on June 6, 2003, as supplemented by Council Bill No. 25-2003, enacted and effective on June 12,
10 2003 (collectively, the "2003 Bond Sale Ordinance"), and (d) Council Bill No. 45-2004, enacted and effective
11 on July 27, 2004 (the "2004 Supplemental Bond Ordinance"), which increased the aggregate principal
12 amount of the Bonds authorized to be issued pursuant to the Original Bond Ordinance by an additional
13 \$50,765,000.

14 The 2003 Bond Sale Ordinance provided for, among other things, the issuance of the County's
15 consolidated public improvement bonds in the aggregate principal amount of \$94,770,000 (the "2003
16 Bonds"). \$54,895,000 in aggregate principal amount of such bonds was applied, together with \$5,105,000 of
17 premium on such bonds, to repay the initial \$60,000,000 in aggregate principal amount of the Notes. Such
18 principal amount constitutes "Bonds" for purposes of the Original Note Ordinance, as supplemented by the
19 2002 Supplemental Project Ordinances, the 2003 Supplemental Project Ordinance, the 2003 Supplemental
20 Bond Ordinance and the 2003 Bond Sale Ordinance.

21 The 2004 Bond Sale Ordinance provided for, among other things, the issuance of two series of the
22 County's consolidated public improvement bonds in the aggregate principal amounts of \$112,305,000 and
23 \$21,000,000, for a total of \$133,305,000 (the "2005 Bonds"). \$48,290,000 in aggregate principal amount of
24 such bonds was applied, together with \$1,710,000 of premium on such bonds, to repay \$50,000,000 in
25 aggregate principal amount of the Notes, thereby reducing the maximum aggregate principal amount of the

1 Notes authorized to be outstanding to \$40,000,000. Such aggregate principal amount of \$48,290,000 also
2 constitutes "Bonds" for purposes of the Original Note Ordinance, as supplemented by the 2002 Supplemental
3 Project Ordinances, the 2003 Supplemental Project Ordinance, the 2003 Supplemental Bond Ordinance, the
4 2003 Bond Sale Ordinance and the 2004 Bond Sale Ordinance.

5 The 2005 Bond Sale Ordinance provided for, among other things, the issuance of the County's
6 consolidated public improvement bonds in the aggregate principal amount of \$60,000,000 (the "2005
7 Bonds"). Prior to the passage of this bill, the aggregate principal amount of such bonds have been applied to
8 repay \$59,439,000 in aggregate principal amount of the Notes, thereby reducing the maximum aggregate
9 principal amount of the Notes to be outstanding to \$30,561,000. Such aggregate principal amount of
10 \$60,000,000 also constitutes "Bonds" for purposes of the Original Ordinance, as supplemented by the 2002
11 Supplemental Project Ordinances, the 2003 Supplemental Project Ordinance, the 2003 Supplemental Bond
12 Ordinance, the 2003 Bond Sale Ordinance, the 2004 Bond Sale Ordinance, the 2004 Supplemental Project
13 Ordinance, the 2004 Supplemental Bond Ordinance and the 2005 Bond Sale Ordinance.

14 The Original Bond Ordinance, as modified by the 2002 Supplemental Project Ordinances, the 2003
15 Supplemental Project Ordinance, the 2003 Supplemental Bond Ordinance, the 2003 Bond Sale Ordinance,
16 the 2004 Bond Sale Ordinance, the 2004 Supplemental Project Ordinance, the 2004 Supplemental Bond
17 Ordinance and the 2005 Bond Sale Ordinance is referred to herein as the "Existing Bond Ordinance".
18 Appendix II to the Note Ordinance, as supplemented from time to time, is incorporated by reference into the
19 Existing Bond Ordinance and made a part thereof.

20 The Existing Bond Ordinance provides that the maximum principal amount of the Bonds authorized
21 to be issued pursuant thereto may be increased by enactment of a Supplemental Ordinance (as defined in the
22 Existing Bond Ordinance), and the County has determined that it is in the best interest of the County to
23 increase the principal amount of the Bonds to be issued pursuant to the Existing Bond Ordinance, as
24 supplemented hereby (collectively, the "Bond Ordinance"), by an additional \$60,345,000 (the "Additional

Bonds") so that the principal amount of the Bonds which may be issued under the Bond Ordinance after the issuance of the 2003 Bonds, the 2004 Bonds and the 2005 Bonds is at least \$91,375,000.

The County has now determined and intends to enact an ordinance (Council Bill No. 7-2005), which is scheduled for final consideration by the County Council following final consideration of this Bill (the "Supplemental Note Ordinance"), to increase the maximum aggregate principal amount of the Notes authorized to be outstanding thereunder by \$59,439,000 (the "Additional Notes") in order to provide additional funds to finance Projects. Accordingly, after enactment of the Supplemental Note Ordinance, the maximum aggregate principal amount of the Notes outstanding at any time under the Existing Note Ordinance as so supplemented (collectively, the "Note Ordinance") shall be \$90,000,000, subject to increase or decrease hereafter in accordance with the Note Ordinance.

Now, therefore:

Section 1. Be it enacted by the County Council of Howard County, Maryland, That all terms used herein with an initial capital letter shall have the meanings given such terms in the Existing Bond Ordinance or in the Recitals of this Ordinance, as applicable, unless the context clearly indicates a contrary meaning.

Section 2. Be it further enacted by the County Council of Howard County, Maryland, That the Existing Bond Ordinance is hereby supplemented and amended as follows:

(a) The County, pursuant to the Bond Enabling Laws and in accordance with the Bond Ordinance, shall borrow an additional \$60,345,000 and incur indebtedness in such amount by issuing and selling upon its full faith and credit one or more series of the Additional Bonds in the aggregate principal amount of \$60,345,000.

(b) The Additional Bonds shall be considered to be "Bonds" for all purposes of the Bond Ordinance and all references in the Bond Ordinance to "Bonds" and all covenants and agreements relating thereto shall include the Additional Bonds. In addition the Additional Notes shall be considered to be "Notes" for all purposes of the Bond Ordinance.

1 (c) Accordingly, the maximum principal amount of the Bonds authorized to be issued
2 hereafter under the Bond Ordinance is hereby increased so that it is at least \$91,375,000.

3 (d) The proceeds of the Additional Bonds shall be applied to the payment of the
4 principal of the Notes or, if any of the Notes have been paid with the proceeds of an Advance under the
5 Credit Agreement or any other Liquidity Facility Agreement, such proceeds may be applied in accordance
6 with the Credit Agreement or such other Liquidity Facility Agreement to the payment of the obligations of
7 the County under the Credit Agreement (and the Promissory Note) or other applicable Liquidity Facility
8 Agreement incurred in connection with such Advance.

9 **Section 3. Be it further enacted by the County Council of Howard County, Maryland, That,**
10 pursuant to and in accordance with the Bond Enabling Laws and the Bond Anticipation Note Act, the County
11 hereby finds and determines as follows:

12 (a) The probable average useful life of the Projects expected to be financed with the
13 proceeds of the Additional Bonds is more than 25 years, and all of the Bonds and all of the Notes will be
14 payable within such period.

15 (b) The aggregate principal amount of the Additional Bonds is within legal limitation
16 on the indebtedness of the County as set forth in Article VI of the Charter of the County.

17 **Section 4. Be if further enacted by the County Council of Howard County Maryland, That,**
18 except as expressly modified and supplemented hereby, the Bond Ordinance shall remain in full force and
19 effect; and the Bond Ordinance, as modified and supplemented hereby, is ratified and confirmed.

20 **Section 5. Be if further enacted by the County Council of Howard County, Maryland, That this**
21 Ordinance shall take effect on the date of its enactment.